



[4830-01-p]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[TD 9754]

RIN 1545-BL59

Disclosures of Return Information Reflected on Returns to Officers and Employees of the Department of Commerce for Certain Statistical Purposes and Related Activities

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations and removal of temporary regulations.

SUMMARY: This document contains final regulations that authorize the disclosure of certain items of return information to the Bureau of the Census (Bureau) in conformance with section 6103(j)(1) of the Internal Revenue Code (Code). These regulations finalize temporary regulations that were made pursuant to a request from the Secretary of Commerce. These regulations require no action by taxpayers and have no effect on their tax liabilities. Thus, no taxpayers are likely to be affected by the disclosures authorized by this guidance.

DATES: Effective Date: These regulations are effective on **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

Applicability Date: For dates of applicability, see §301.6103(j)(1)-1(e).

FOR FURTHER INFORMATION CONTACT: William Rowe, (202) 317-5093 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

This document contains amendments to 26 CFR part 301. Section 6103(j)(1)(A) authorizes the Secretary of Treasury to furnish, upon written request by the Secretary of Commerce, such returns or return information as the Secretary of Treasury may prescribe by regulation to officers and employees of the Bureau for the purpose of, but only to the extent necessary in, the structuring of censuses and conducting related statistical activities authorized by law. Section 301.6103(j)(1)-1 of the existing regulations further defines such purposes by reference to 13 U.S.C. chapter 5 and provides an itemized description of the return information authorized to be disclosed for such purposes.

By letter dated May 10, 2013, the Secretary of Commerce requested that additional items of return information be disclosed to the Bureau for purposes of structuring a census that costs less per housing unit and still maintains high quality results. A major cost in previous decennial censuses was the high number of follow-up, in-person attempts to collect information from housing units that did not return a completed census form. The Bureau intends to conduct research and testing for the next decennial census using administrative data from federal agencies, state agencies, and commercial vendors to determine whether the number of non-response follow-up visits can be reduced through the strategic reuse of this data. Specifically, the Bureau aims to achieve the following research initiatives: (1) Validating and enhancing the Master Address File; (2) Designing and assigning resources to carry out the next decennial census; (3) Un-duplicating public, private, and census lists; and (4) Imputing

missing data. All administrative data from the above sources, including return information, will be integrated into the Bureau's data system that is used for the next decennial census and housing counts and will be done in a manner such that the source (for example, commercial vendor, IRS, or Social Security Administration) will not be associated with any data element in the final decennial person-level census records.

On July 15, 2014, a temporary regulation (TD 9677) was published in the **Federal Register** (79 FR 41132). The text of the temporary regulations also serves as the text of proposed regulations set forth in a notice of proposed rulemaking (REG-120756-13) published in the **Federal Register** for the same day (79 FR 41152). No public hearing was requested or held. Two comments responding to the notice of proposed rulemaking were received. After consideration of these comments, the proposed regulations are adopted by this Treasury decision, and the corresponding temporary regulations are removed.

The temporary regulations authorized disclosure of additional items of return information from the Form 1040, "U.S. Individual Income Tax Return", and disclosure of items from the Form 1098, "Mortgage Interest Statement". Specifically, § 301.6103(j)(1)-1T of the temporary regulations authorizes the disclosure of the following additional items of return information from Forms 1040: (1) Electronic Filing System Indicator; (2) Return Processing Indicator; and (3) Paid Preparer Code. Section 301.6103(j)(1)-1T authorizes the disclosure of the following items of return information from Form 1098: (1) Payee/Payer/Employee Taxpayer Identification Number; (2) Payee/Payer/Employee Name (First, Middle, Last, Suffix); (3) Street Address; (4) City; (5) State; (6) ZIP Code (9 digit); (7) Posting Cycle Week; (8) Posting Cycle Year; and

(9) Document Code. These temporary regulations apply to disclosures to the Bureau of the Census made on or after July 15, 2014, and expire on or before July 14, 2017.

Both comments opposed publication of the regulations and questioned the underlying authority for the IRS to disclose federal tax return information. Contrary to the views expressed in these comments, section 6103(j)(1) specifically authorizes the IRS to disclose returns or return information to the Bureau of the Census for the purpose of, but only to the extent necessary in, the structuring of censuses and national economic accounts and conducting related statistical activities authorized by law. The final regulations under § 301.6103(j)(1)-1 are being issued under the authority of section 6103(j)(1). Accordingly, the recommendation of both commentators that the regulations not be published has not been adopted.

Special Analyses

Certain IRS regulations, including this one, are exempt from the requirements of Executive Order 12866, as supplemented and reaffirmed by Executive Order 13563. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. In addition, because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Accordingly, a regulatory flexibility analysis is not required under the Regulatory Flexibility Act (5 U.S.C. chapter 6). Pursuant to section 7805(f) of the Internal Revenue Code, the Notice of Proposed Rulemaking preceding this regulation was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small businesses.

Drafting Information

The principal author of these final regulations is William Rowe, Office of the Associate Chief Counsel (Procedure & Administration).

List of Subjects in 26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 301 is amended as follows:

PART 301---PROCEDURE AND ADMINISTRATION

Paragraph 1. The authority citation for part 301 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 301.6103(j)(1)-1 is amended by adding paragraphs (b)(1)(xviii) through (xx) and (b)(7) and revising paragraph (e) to read as follows:

§301.6103(j)(1)-1 Disclosures of return information reflected on returns to officers and employees of the Department of Commerce for certain statistical purposes and related activities.

* * * * *

(b) * * *

(1) * * *

(xviii) Electronic Filing System Indicator.

(xix) Return Processing Indicator.

(xx) Paid Preparer Code.

* * * * *

(7) Officers or employees of the Internal Revenue Service will disclose the following return information reflected on Form 1098 “Mortgage Interest Statement” to officers and employees of the Bureau of the Census for purposes of, but only to the extent necessary in, conducting and preparing, as authorized by chapter 5 of title 13, United States Code, demographic statistics programs, censuses, and surveys—

- (i) Payee/Payer/Employee Taxpayer Identification Number;
- (ii) Payee/Payer/Employee Name (First, Middle, Last, Suffix);
- (iii) Street Address;
- (iv) City;
- (v) State;
- (vi) ZIP Code (9 digit);
- (vii) Posting Cycle Week;
- (viii) Posting Cycle Year; and
- (ix) Document Code.

* * * * *

(e) Effective/applicability date. Paragraphs (b)(1)(xviii) through (xx) and (b)(7) of this section apply to disclosures to the Bureau of the Census made on or after July 15, 2014. For rules that apply to disclosures to the Bureau of the Census before that date, see 26 CFR 301.6103(j)(1)-1 (revised as of April 1, 2014).

§301.6103(j)(1)-1T **[Removed]**

Par. 3. Section 301.6103(j)(1)-1T is removed.

John Dalrymple,

Deputy Commissioner for Services and Enforcement.

Approved: January 22, 2016.

Mark J. Mazur,

Assistant Secretary of the Treasury.

[FR Doc. 2016-04310 Filed: 2/24/2016 4:15 pm; Publication Date: 2/26/2016]